

# Exhibit A

**VIRGINIA:**

**IN THE CIRCUIT COURT FOR THE CITY OF RICHMOND**

<b>RIMA FORD VESILIND, <i>et al.</i></b>	)	
<b>Plaintiffs</b>	)	
<b>v.</b>	)	<b>Case No. CL15003886</b>
	)	
<b>VIRGINIA STATE BOARD OF ELECTIONS, <i>et al.</i></b>	)	
<b>Defendants.</b>	)	

**DEFENDANTS' RESPONSE TO  
THE MOTIONS TO STAY AND CERTIFY INTERLOCUTORY APPEAL**

Defendants the Virginia State Board of Elections and its members (James B. Alcorn, Clara Belle Wheeler, and Singleton McAllister) in their official capacities, the Department of Elections, and Edgardo Cortés in his official capacity as Commissioner of Elections, hereby respond as follows to the (i) Motion to Stay This Court's February 16 Order Pending Appeal and (ii) Motion to Certify Interlocutory Appeal of This Court's February 16 Order to the Supreme Court of Virginia, both filed on March 7 by counsel for seven non-party members of the Senate of Virginia (the Virginia Senators) and the non-party Division of Legislative Services (DLS).

The Motions do not seem to affect Defendants' interests in this litigation or in elections administration. The movants assert that a stay will not substantially injure Plaintiffs and that discovery and this case may proceed during an interlocutory appeal. (Mot. to Stay at 16.) And even if trial proceeds as scheduled (September 12-16, 2016) and this Court rules in favor of Plaintiffs within a short time after trial, it is not at all clear that this litigation will produce a final result before the 2017 Virginia legislative elections. If this Court rules in favor of Plaintiffs, separation of powers principles and the Constitution's express requirement that legislators "shall be elected from electoral districts established by the General Assembly" (VA. CONST. art. II § 6) dictate looking to the General Assembly to correct any legal flaws in current districts. Further

proceedings, possibly involving a special master, may be necessary if there must be district changes beyond those made by the General Assembly. Any ruling in favor of Plaintiffs likely would be appealed. And it takes time to implement, and organize elections in, new districts. Accordingly, it would be difficult for this litigation to produce a final, altered set of state legislative districts before the 2017 statutory elections deadlines, which begin March 30, 2017.<sup>1</sup>

Given that the Motions do not appear to impact Defendants' interests, Defendants neither support nor oppose the Motions. To the extent Va. Code § 8.01-670.1 requires that Defendants expressly agree to an interlocutory appeal of legislative privilege issues, Defendants so agree.

Respectfully submitted,

STATE BOARD OF ELECTIONS  
JAMES B. ALCORN  
CLARA BELLE WHEELER  
SINGLETON MCALLISTER  
DEPARTMENT OF ELECTIONS  
EDGARDO CORTÉS

By: \_\_\_\_\_

Counsel

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<sup>1</sup> Va. Code § 24.2-515 fixes the date of 2017 primary elections as the second Tuesday in June, or June 13, 2017, and June 13 is also the deadline for independent candidates, or those representing recognized political parties, to file for qualification for the November 2017 general election ballot. *See* Va. Code §§ 24.2-507(1) & 24.2-510(1). Much must be done prior to June, however. Va. Code § 24.2-522(A) requires that primary candidates' declarations of candidacy and petitions be filed no later than 75 days before the primary, or March 30, 2017, a time period that is necessary to allow for other state deadlines (*e.g.*, Va. Code §§ 24.2-527(A)); ballot preparation, verification, and printing; and the requisite mailing of absentee ballots no later than 45 days before the date of the primary election (*see* Va. Code § 24.2-612).

The complex process of elections administration requires substantial time and organization by Defendants and by hundreds of elections officials and thousands of elections staff and volunteers in the 133 counties and cities across the Commonwealth. Defendants do not believe this Court should order alterations to the 2017 elections schedule set by Virginia law. Moreover, Plaintiffs are the main cause of any inability to finalize revised districts before the 2017 Virginia legislative elections, given that Plaintiffs did not file this action until September 14, 2015 – more than **four years** after the current districts were created and enacted in 2011.

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**CERTIFICATE OF SERVICE**

I certify that, on March 18, 2016, I am serving a copy of the foregoing on the following  
by mail, with a courtesy copy sent by email:

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A handwritten signature in black ink, appearing to be 'J. Torchinsky', written over a horizontal line.

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